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# CREATE WP3C-2 COPYRIGHT AND CIVIL ENFORCEMENT - INVESTIGATING THE ‘LEGAL ICEBERG’

PI - Jane Cornwell, RA – Andrew Black, University of Edinburgh  
(October 2013-September 2015)

- RESEARCH OBJECTIVES AND KEY THEMES:** To map formal and informal copyright enforcement activity in Scotland and to explore the different factors influencing that activity.
- What are the key practices in IP/copyright enforcement, ‘formally’ in court litigation and ‘informally’ in correspondence, negotiation and settlement?
  - What are the key factors influencing the conduct of IP/copyright infringement disputes, their trajectories and outcomes?
  - What are the particular considerations relevant to copyright infringement disputes, generally and in the creative industries?

Galanter (1974) identified ‘official’ justice systems as:  
‘the ‘upper’ layers of a massive ‘legal’ iceberg’  
consisting of distinct but inter-merging layers of adjudication, litigation, private settlement systems and other routes to dispute resolution.

**KEY CHALLENGES:** To develop and implement a research design capable of investigating ‘unobservable’ informal and private enforcement practices as well as ‘observable’ litigation activity.

Empirical research into IP enforcement focussed on other jurisdictions – Dent and Weatherall, Greenhalgh et al, Gallagher, Helmers and McDonagh. **INFLUENCES** Empirical research into other areas of disputing practice in Scotland – Coope and Morris, Samuel, Agapiou and Clark.

**RESEARCH DESIGN:** Mixed empirical methods combining analysis of quantitative and qualitative data from Scottish court records and a survey/interviews among legal advisers.

**VALUE ADDED:** Refining new research design; deepening research connections with legal sector; widening opportunities for knowledge exchange and dissemination (eg CIPA Journal, ITMA seminar).

